

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the matter of

Telephone Number Portability

Petition of Puerto Rico Telephone Company,
Inc. for Declaratory Ruling

CC Docket No. 95-116

COMMENTS OF CENTENNIAL COMMUNICATIONS CORP.

1. Puerto Rico Telephone Company, Inc. ("PRTC") has requested a declaratory ruling that this Commission's number portability rules compel the immediate utter and disruption of long-settled calling patterns for landline-to-wireless calls within Puerto Rico.¹ Centennial Communications Corp. ("Centennial") files these comments in response to PRTC's petition, and urges the Commission to reject PRTC's petition in its entirety.

2. Centennial is PRTC's main competitor. Like PRTC, Centennial provides both wireless and landline service throughout Puerto Rico. As far as Centennial is aware, although there are a number of resellers and other wireless providers in Puerto Rico, Centennial is the only facilities-based competitive local exchange carrier operating there.

3. Centennial has long had an extensive fiber optic network throughout Puerto Rico. As a result, it has been able to minimize its reliance on PRTC (whose network has often proven to be unreliable and over-congested). As a result, for the last seven years, the interconnection agreements between Centennial and PRTC have provided that Centennial may establish direct fiber-optic interconnection points at PRTC's host end offices and that any and all landline-to-

¹ In the Matter of Telephone Number Portability, Petition of Puerto Rico Telephone Company, Inc. for Declaratory Ruling, CC Dkt. No. 95-116 (filed November 26, 2003) ("PRTC Petition"), *Public Notice*, January 9, 2004.

wireless traffic picked up at those host end offices will be rated to the end user as local.²

4. This arrangement has been repeatedly approved by the Telecommunications Regulatory Board of Puerto Rico (the “Board”), and in reliance on it Centennial has invested millions of dollars building direct fiber-optic connections to each PRTC host end office in Puerto Rico. It has served as an important way to link the outlying and sometimes quite rural areas of Puerto Rico with urban centers such as San Juan, Mayaguez, and Ponce. Families and friends located in outlying areas — or, indeed, anywhere on Puerto Rico — could call any Centennial wireless phone on the island as a local call, facilitating the social and economic integration of the Island.

5. Centennial understands that other wireless carriers have made similar arrangements with PRTC, either purchasing direct connections from PRTC host end offices to wireless switches or making “reverse toll billing” arrangements, in which PRTC hauls the traffic to a central location in San Juan but agrees not to charge its end users for a toll call in exchange for payments from the wireless carriers in question.³

6. Centennial believes that the widespread availability of universal intra-island local calling to wireless phones has contributed significantly to the growth and development of the

² PRTC has consistently asserted that direct fiber interconnection is not technically feasible at PRTC’s various “remote” central offices, and Centennial has not, to this point, challenged that assertion.

³ Note that — contrary to PRTC’s claim, *see* PRTC Petition at 3 & n.8 — Centennial’s physical interconnection arrangements with PRTC are not properly viewed as “reverse toll billing.” The logic of reverse toll billing is that the landline carrier actually has to do the work of hauling traffic from its end users to a location — typically the LATA tandem — that would properly be viewed as a “toll” call were it the end point of the communication. Reverse toll billing supposedly compensates the landline carrier for that effort. Centennial questions this logic in any number of respects, not least that it seems to constitute an end-run around the plain command of 47 C.F.R. § 51.703(b). In Puerto Rico, however, at least in Centennial’s case, the logic simply does not apply, because Centennial picks up the traffic at the host end office serving the end user making the call. PRTC undertakes no interexchange haulage for which it could reasonably claim a right to be compensated by anyone. From Centennial’s perspective, of course, these are all intra-MTA calls and, therefore, “local” in nature.

wireless industry in Puerto Rico. Based on information from its most recent interconnection arbitration with PRTC, Centennial believes that there are approximately 1.8 million wireless lines in service in Puerto Rico, as compared to only about 1.1 million landline lines in service. Centennial submits, in short, that the robust and efficient form of wireline-to-wireless interconnection that exists in Puerto Rico has served the public interest well.⁴

7. PRTC seeks to destroy this beneficial arrangement, and, indeed, contends that this Commission's number pooling and portability rules compel its destruction.

8. PRTC claims that with intermodal number portability, it is now possible that some wireless customer might choose to port his or her number to a landline phone. As a result, it is possible that a call that looks like an intra-Puerto-Rico landline-to-wireless call — universally rated as local — would really turn out to be an intra-Puerto-Rico landline-to-landline call, that (according to PRTC) should be rated as toll or local based on the physical location of the end user. The same situation might (theoretically) arise if a “wireless” NPA-NXX were to be pooled, so that a landline carrier would assign “wireless” numbers to landline customers.⁵ PRTC

⁴ PRTC admits that “reverse toll billing” was “devised as an option for wireless carriers to promote the growth of CMRS service.” PRTC Petition at 3. Centennial agrees rating calls to wireless phones as local helps encourage wireless service in Puerto Rico — although PRTC's poor performance in providing its own services has doubtless also played a role. PRTC's island-wide penetration rate is only about 76%. See U.S. Census Bureau, Census 2000, Summary File 3 (SF3), http://factfinder.census.gov/servlet/DatasetMainPageServlet?_ds_name=DEC_2000_SF3_U&_program=DEC&_lang=en. The fact that local rating of calls to wireless phones has encouraged the growth of wireless service highlights the “bait and switch” nature of PRTC's position. After allowing Puerto Rico telecommunications markets to evolve on the basis of unlimited local calling to wireless phones, PRTC now wants to convert a very large fraction of landline-to-wireless calls from local to toll, simultaneously disrupting the marketplace and lining its own pockets with additional access and toll charges.

⁵ PRTC Petition at 4. This latter concern, however, is entirely hypothetical. Centennial is the only facilities-based CLEC on Puerto Rico. It is therefore the only non-PRTC landline carrier that will have numbers assigned to switches. Centennial does not believe that it has been assigned any pooled numbers from “wireless” NPA-NXXs for use in its landline operations. On the other hand, Centennial's 787-717 NPA-NXX has been split between landline and wireless service for the last seven years with no apparent problems for PRTC as regards routing and rating calls.

further asserts that its switches are unable to route such a call to the subscriber's presubscribed long distance carrier once the number portability lookup has been done; instead, PRTC would itself carry the call end-to-end on its own network.⁶

9. In order to avoid this supposedly untoward result, PRTC proposes to eliminate the arrangements under which all landline-to-wireless calls are rated as local, and instead impose a new system, under which rating of landline-to-wireless calls is determined by the virtual "location" of the NPA-NXX code of the dialed number. The result would be the conversion of billions of minutes of intra-Puerto-Rico traffic from local to toll rating, inconveniencing hundreds of thousands, if not millions, of customers.⁷

10. PRTC does not assert that the supposed problem — a few calls that "should be" rated as toll (per PRTC) actually being handled end-to-end by PRTC as local — is actually economically significant. Indeed, PRTC does not provide any estimate whatsoever as to the number of customers who have chosen or might choose to port a wireless number to a landline number. It simply asserts that this Commission's number portability rules compel the conclusion

⁶ See PRTC Petition at 5. As Centennial understands it, PRTC has a roughly 50% share of the intra-Puerto-Rico toll market. So, assuming that PRTC's assertions about the technical limitations of its switches are correct, about half of such calls would end up being carried by PRTC when the customer had presubscribed to some other carrier for intrastate, intraLATA calling.

⁷ This virtual "location" is quite divorced from any arguably relevant physical location. To the extent that an NPA-NXX itself is "located" anywhere, it is located in the switch to which it has been assigned: calls to that NPA-NXX are physically routed to that switch. For competing landline carriers and wireless carriers, that switch could be far removed from the "rate center" associated with the NPA-NXX. And, in the case of a wireless customer, the fact that the customer's phone has been assigned a number with a particular NPA-NXX says nothing at all about where the customer might be at the time of any particular call. At bottom, however, worrying about "location" in the context of call rating is misguided in any event. As Centennial has noted elsewhere, under relevant federal law the distinction between "toll" and "local" traffic (known in the statute as "telephone exchange service" traffic) is not based on location at all. To the contrary, both "toll" and "local" calls may traverse multiple "exchange areas." See 47 U.S.C. §§ 153(47), 153(48). What matters under the statute is whether there is a separate charge for a call over and above the basic "exchange service" charge. See 47 U.S.C. § 153(48). In statutory terms, therefore, calls that are rated as local *are* "local," and calls that are rated as toll *are* "toll" — irrespective of the physical location of either party to the call.

that universal local rating for landline-to-wireless calls must cease.

11. There are many, many things wrong with PRTC's claims.

12. First, it is not at all clear why this Commission would have jurisdiction over this issue. On the face of it, it would seem that the proper retail rating of calls originating with a PRTC customer on Puerto Rico, and that remain entirely within Puerto Rico, is a matter for the Board, not the Commission. The Board here has ruled that PRTC is to continue to rate calls to wireless numbers as local. It is hard to see why this would be a concern for this Commission — even if some small amount of intra-Island, intra-LATA traffic that PRTC might want to rate as toll is actually rated as local — given that this Commission's jurisdiction over retail rating would seem to extend only to jurisdictionally interstate traffic. *See* 47 U.S.C. §§ 151, 152(a).

13. Second, to the extent that this Commission does have jurisdiction, it would acquire it in one of two ways: its jurisdiction over wireless traffic generally, *see* 47 U.S.C. §§ 301 *et seq.*, or its jurisdiction over interconnection arrangements between telecommunications carriers, *see* 47 U.S.C. §§ 251, 252.

a. As to interconnection arrangements, the statute provides that agreements setting out terms and conditions for interconnection should be binding. *See* 47 U.S.C. §§ 252(a)(1) (negotiated agreements), 252(b)(4)(C) (arbitrated agreements). There is no conceivable reason to relieve PRTC of its contractual commitments to treat landline-to-wireless traffic as "local" at retail. Indeed, to the extent that the Commission has addressed this issue in the context of interconnection arrangements, its rulings have supported a broad scope of "local" calling relating to wireless traffic. *See* *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, First Report and Order*, 11 FCC Rcd 15499 (1996) ("*Local Competition Order*") at ¶¶ 1036, 1043-44 (deeming any intra-MTA call to be

“local” for purposes of wireline-wireless interconnection, and noting that the “location” of a wireless caller can reasonably be approximated as the point of physical interconnection between the two networks).

b. As to wireless services generally, the Commission has long sought to avoid unfair or unreasonable interconnection regimes imposed by landline carriers. *See* 47 C.F.R. § 20.11 (requiring reasonable interconnection terms); *see also Local Competition Order, supra*, at ¶ 1036 (using broadest service area of wireless providers to determine “local” nature of traffic exchanged).

c. To the extent that the issues raised by PRTC fall within this Commission’s jurisdiction, therefore, this Commission has consistently supported economical and efficient interconnection arrangements between wireline and wireless carriers. Such arrangements have been established in Puerto Rico, and it is just such arrangements that PRTC is seeking to disrupt.

14. Also utterly lacking from PRTC’s analysis is any estimate of the size of the problem it is supposedly trying to solve, as compared to the disruption its purported solution would create. PRTC’s main problem arises because it is possible that a wireless customer might decide to port his or her number to a landline phone. In that case PRTC might end up treating a landline-to-landline call as “local” for routing and billing purposes even though (per PRTC) it “really” ought to be treated as toll. Centennial cannot deny that it is theoretically possible that out of the nearly two million wireless lines in service in Puerto Rico, one or two customers might choose to move technologically backwards to a PRTC landline phone while keeping their wireless number. But if ten or a hundred or even a thousand customers did so, would that justify disrupting well-established, sensible calling patterns for landline-to-wireless traffic in Puerto

Rico?⁸

15. Centennial submits that the answer is “no.” Suppose that 1000 customers port wireless numbers to landline phones, and that each one receives inbound traffic of 500 minutes per month that “should be” toll. That’s 500,000 minutes of (intrastate) traffic a year on which PRTC would like to impose toll or access charges. If we assume intrastate access charges are approximately \$0.05 per minute (originating and terminating combined), then PRTC is asking this Commission to overrule competent state regulatory authorities, and disrupt the calling patterns and expectations of hundreds of thousands of customers to solve what is, at most, a \$25,000 problem. Centennial submits that there is no rational cost-benefit analysis that would justify indulging PRTC’s rating whims in these circumstances.

16. The essence of PRTC’s argument, in fact, is not that it cannot continue to rate calls to wireless numbers as “local” in an environment of pooling and intermodal portability. To the contrary, it states clearly that it can and will continue to rate and route calls to “native” wireless numbers as local in compliance with the Board’s ruling. *See* PRTC Petition at 4. PRTC’s real claim is that it will be technically unable to expand such arrangements to customers who port a wireline number to a wireless carrier, or who receive wireless service from a 1000s block within a “native” wireline NPA-XXX. This is, supposedly, discriminatory under federal law. *See* PRTC Petition at 9-11.

17. Centennial questions whether PRTC actually cannot configure its switches to

⁸ PRTC’s parent company, Verizon, recently agreed with Centennial in another filing within this same docket that there are only trivial amounts of wireless-to-wireline porting, and agreed also that there was no good reason for the Commission to devote its resources to “solving” the purported “problems” to which this unusual circumstance might give rise. *See* In the Matter of Telephone Number Portability, *Reply Comments of Verizon*, Docket No. 95-116 (filed February 4, 2004) at 1-2 (citing, with approval Centennial comments on the pending *Further Notice of Proposed Rulemaking* in this docket to the effect that wireless-to-wireline porting is essentially a non-issue and asserting that its information shows this situation to arise in less than 1% of all ports).

differentiate between calls to ported or pooled “native” wireline numbers and ported or pooled “native” wireless numbers in order to route and rate calls based on the nature of the carrier serving the called party. For 1000s-block pooling in particular, it should be possible for PRTC to establish translations arrangements that properly and separately classify pooled 1000s blocks within an NPA-NXX as either “native” wireless or “native” wireline. PRTC may not want to incur the expense of making these translations arrangements, but that is another matter.

18. But even taking PRTC’s claims at face value, its “discrimination” argument is wrong. The law does not outlaw each and every difference in treatment between customers that are arguably similarly situated; it only outlaws “unreasonable” discrimination. *See* 47 U.S.C. § 202(a). PRTC has identified a situation in which customers calling a wireless subscriber with a number ported from a landline network will experience different rating arrangements (some calls toll, some calls local) from those experienced by customers calling a “native” wireless number (all calls local). The legal question is not answered simply by noting that this difference exists. The legal question is whether the difference is unreasonable considering all the circumstances.

19. Centennial submits that it is not. People calling the customer with the ported number will experience exactly the same toll/local rating arrangements as existed prior to the port. That might be different from the experience of people calling a “native” wireless number, but the subscriber in question will have obtained the benefits of retaining and existing telephone number — a benefit that “native” wireless subscribers will not have received.

20. Indeed, Centennial submits that the Commission has already reached the correct conclusion on this issue. When it was confronted with challenges to its decision to implement intermodal number portability last fall, the Commission made clear that nothing in its portability rules would warrant changing the rating of calls to ported numbers. Specifically, the

Commission held:

[P]orting from a wireline to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number does not, in and of itself, constitute location portability, because ***the rating of calls to the ported number stays the same***. As stated above, a wireless carrier porting-in a wireline number is required to maintain the number's original rate center designation following the port. As a result, ***calls to the ported number will continue to be rated in the same fashion as they were prior to the port***.

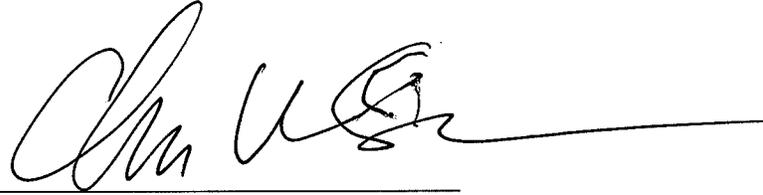
In the Matter of Telephone Number Portability *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, FCC 03-284 (rel. November 10, 2003) at ¶ 28 (emphasis added). Here, PRTC not only wants to change the rating of calls to intermodally ported numbers. Relying entirely on this Commission's number portability rules, it wants to change the rating of calls to any wireless number that could, potentially, be intermodally ported. Laying such a massive disruption of established local, intrastate calling patterns at this Commission's feet is, as noted above, disingenuous. But should the Commission decide that it has jurisdiction over this matter on some theory, it should resoundingly deny that it intends its number portability requirements to cause such disruptions.

21. For all these reasons, the Commission should deny PRTC's Petition for Declaratory Ruling.

Respectfully submitted,

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